

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**MURL DOVEL dba DOVEL'S  
LOCKER  
Fremont County, Iowa**

ADMINISTRATIVE CONSENT  
ORDER

NO. 2011-SW- 11

TO: Murl Dovel  
Dovel's Locker  
2303 Park Street  
Hamburg, Iowa 51640

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Murl Dovel dba Dovel's Locker for the purpose of resolving the solid waste disposal violations related to the disposal of deer carcasses in a trench located at Mr. Dovel's property in Fremont County, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Dan Stipe, Field Office #4 Supervisor  
Iowa Department of Natural Resources  
1410 Sunnyside Lane  
Atlantic, Iowa 50022  
Phone: 712/243-1934

**Relating to legal requirements:**

Kelli Book, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Windsor Heights, Iowa 50324  
Phone : 515/281-8563

**Payment of penalty to:**

Iowa Department of Natural Resources  
Henry A. Wallace Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

Pursuant to the provisions of Iowa Code section 455B.307(2) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 and the rules adopted pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: MURL DOVEL dba DOVEL'S LOCKER

Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, DNR has jurisdiction to issue this administrative consent order.

**III. STATEMENT OF FACTS**

1. Murl Dovel owns and operates Dovel's Locker. Dovel's Locker is a meat locker located at 119 Main Street in Hamburg, Iowa in Fremont County.

2. On December 8, 2010, DNR Field Office 4 received an anonymous complaint regarding deer carcasses being buried at property located in rural Fremont County. The complainant alleged that Dovel's Locker was responsible for burying the deer carcasses.

3. On January 14, 2011, Dan Stipe, DNR Field Office 4 Supervisor, investigated the complaint at Mr. Dovel's property located in Section 22, Madison and Washington Townships, Fremont County, Iowa. Mr. Stipe observed deer carcasses in a trench approximately 150 feet in length, 5 feet in width, and 4 to 5 feet deep. Mr. Stipe spoke to Mr. Dovel at Dovel's Locker in Hamburg. Mr. Dovel stated that he had been burying deer carcasses for several years and was unaware that the disposal was prohibited.

4. On January 18, 2011, Mr. Stipe spoke to Mr. Dovel on the telephone and informed Mr. Dovel that the carcasses would have to be removed from the burial trench and taken to the landfill. Mr. Dovel asked if the carcasses could be burned. Mr. Stipe explained that burning would be a violation of the open burning violations.

5. On January 18, 2011, DNR issued a Notice of Violation letter to Mr. Dovel for the solid waste disposal violations discovered during Mr. Stipe's investigation. The letter informed Mr. Dovel that the matter was being referred for further enforcement.

6. Mr. Dovel had previous knowledge of the solid waste disposal regulations. On January 10, 2002, DNR issued a Notice of Violation to Dovel's Locker for the improper disposal of deer carcasses. The deer carcasses were being buried at Mr. Dovel's property. The letter included an explanation of the solid waste regulations.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 IAC chapters 100-123.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: MURL DOVEL dba DOVEL'S LOCKER

2. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director. Mr. Dovel had been burying deer carcasses at his property for several years. The above-facts disclose numerous violations of this provision.

**V. ORDER**

THEREFORE, it is hereby ordered and Murl Dovel dba Dovel's Locker agrees to do the following:

1. Murl Dovel dba Dovel's Locker shall remove all carcasses from his property located in Section 22, Madison and Washington Townships, Fremont County, Iowa within 30 days of the date the Director signs this administrative consent order. The carcasses shall be properly disposed of at a landfill and the landfill receipts shall be submitted to DNR Field Office 4 within 10 days of the disposal at the landfill;
2. Murl Dovel dba Dovel's Locker shall cease all improper disposal of the deer carcasses and properly dispose of all deer carcasses in the future; and
3. Murl Dovel dba Dovel's Locker shall pay a penalty of \$4,000.00 within 30 days of the date the Director signs this administrative consent order.

**VI. PENALTY**

Iowa Code section 455B.307(3) authorizes the assessment of civil penalties of up to \$5,000.00 per day for solid waste violations involved in this matter.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a \$4,000.00 penalty. The administrative penalty assessed by this administrative consent order is determined as follows:

Economic Benefit - 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.2(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available." Mr. Dovel has benefited

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: MURL DOVEL dba DOVEL'S LOCKER

financially over the years by burying deer carcasses. Some of the economic benefit will be offset by proper disposal of the carcasses observed during the latest complaint investigation. Therefore, it is estimated that at least \$500.00 has been avoided in landfill fees and transportation and that amount is assessed for economic benefit.

Gravity of the Violation --One of the factors to be considered in determining the gravity of a violation is the amount of penalty authority by the Iowa Code for that type of violation. Substantial penalties are authorized by statute. Despite the high penalties authorized, DNR has determined at this time that the most equitable and efficient means of resolving this matter is through the issuance of an administrative consent order. Failure to properly dispose of solid waste threatens the integrity of the regulatory program. Improper solid waste disposal can degrade water quality and contribute contaminants to land, water, and the air, as well as threaten public health. Therefore, \$1,500.00 is being assessed for this factor.

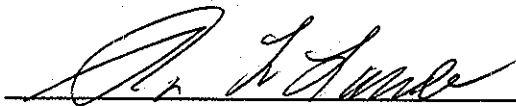
Culpability - Mr. Dovel has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that his conduct is subject to DNR's rules. Additionally, Mr. Dovel has continued to bury deer carcasses even after being informed of the rules. Based on the above considerations, \$2,000.00 is assessed for this factor.


## VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Murl Dovel dba Dovel's Locker. For that reason Murl Dovel dba Dovel's Locker waives the right to appeal this administrative order or any part thereof.

## VIII. NONCOMPLIANCE

Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent order. Failure to comply with this administrative consent order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.307.

  
\_\_\_\_\_  
ROGER L. LANDE, DIRECTOR  
Iowa Department of Natural Resources

  
\_\_\_\_\_  
Murl Dovel

Dated this 19th day of  
April, 2011.

Dated this 4-11-11 day of  
\_\_\_\_\_, 2011.

Kelli Book; Field Office 4; VI C